UNITED STATES DISTRICT COURT WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION 3:10CV130-RJC

CHRISTOPHER D. ELLERBE,)	
Plaintiff,)	
v.)	
BOYD BENNETT et al.,)	<u>ORDER</u>
Defendants.)	
)	

THIS MATTER comes before the Court on Petitioner's Motions for an Order Compelling Discovery (Doc. No. 58, 59, 60, 61, 62 and 63) and Defendants' opposition (Doc. Nos. 64, 65 and 68)

On March 22, 2010, Plaintiff filed a Complaint pursuant to 42 U.S.C. § 1983 against twenty-eight defendants alleging numerous violations of his constitutional rights. (Doc. No. 1). On July 20, 2010, this Court dismissed eleven defendants and ordered service on the remaining seventeen defendants. (Doc. No. 10). All defendants have now filed an Answer and Plaintiff has filed several motions to compel discovery. (Doc. Nos. 58, 59, 60, 61, 62 and 63).

Plaintiff filed two Motions to Compel Discovery [for production of documents and for interrogatories] as to Defendants Marshall; Weaver; Nicholson; Pressley; Bennett; Nance; Triplett; Sturdivant; Stanback; Gaddy; Eaves; Stevens; King; Heh and Hinkle. (Doc. Nos. 58 and 59). According to the response filed by the Defendants, Kory Dalrymple, Assistant Superintendent for Programs, responded to Plaintiff's First Set of Interrogatories on June 11, 2011 on behalf of the Defendants. (Doc. No. 65 at 2). Counsel for Defendants also provided a

copy of the policies and procedure requested by the Plaintiff. (<u>Id.</u>). On June 29, 2011, counsel for the Defendants provided Plaintiff with a copy of the incident report dated November 27, 2008 which includes the names of the participants involved, the medical treatment provided and statements of witnesses. (<u>Id.</u>). Defendants anticipate filing a Motion for Summary Judgment on or before September 15, 2011 which will likely provide Plaintiff with additional documentation relevant to the issue of whether Defendants violated Plaintiff's Constitutional rights. Because Defendants have substantially complied with Plaintiff's discovery requests and anticipate providing Plaintiff with additional documentation on or before September 15, 2011, Plaintiff's Motions to Compel (Doc. Nos. 58 and 59) are DENIED as moot.

Plaintiff filed two Motions to Compel Discovery [for production of documents and for interrogatories] as to Defendants Veronica Campbell and Joanne Harris. (Doc. Nos. 61 and 63). According to the response filed by Defendants Campbell and Harris, although both originally filed timely objections, both have now responded to Plaintiff's discovery requests. (Doc. No. 64). Because Defendant's Campbell and Harris have responded to Plaintiff's discovery requests, Plaintiff's Motions to Compel (Doc. Nos. 61 and 63) are DENIED as moot.

Finally, Plaintiff filed two Motions to Compel Discovery [for production of documents and for interrogatories] as to Defendant Santa Lucia. (Doc. Nos. 60 and 62). According to the response filed by Defendant Santa Lucia, although she originally filed timely objections to Plaintiff's discovery requests, she has now responded to Plaintiff's discovery requests. (Doc. No. 68). Because Defendant Santa Lucia has responded to Plaintiff's discovery requests, Plaintiff's Motions to Compel (Doc. Nos. 60 and 62) are DENIED as moot.

IT IS, THEREFORE, ORDERED that:

(1) Plaintiff's Motions to Compel Discovery are DENIED as moot (Doc. Nos. 58, 59, 60,

61, 62 and 63);

(2) The parties shall complete any remaining discovery on or before September 1, 2011 and dispositive motions, if any, shall be filed on or before October 3, 2011.

SO ORDERED.

Signed: July 28, 2011

Robert J. Conrad, Jr.

Chief United States District Judge